IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.371 OF 2006

Ramakant G. Shukla ...Petitioner

vs.

Yagyanarayant Dubey & Ors. ...Respondents

Mr.J.S.Kini i/b Mr.Suresh Dubey for the Petitioner
Mr.A.G.Kothari for Respondent Nos.1 and 2
Mr.A.R.Patil,A.G.P. for Respondent No.3-State

CORAM: A.S.OKA,J.
DATE : JUNE 14, 2007.

P.C.:

1. Heard learned Advocates for the parties. The breach alleged in this Contempt Petition is of clause 2 of the order dated 30th October 2004 passed by the learned Presiding Officer of the School Tribunal, Mumbai. Clause No.2 reads thus :

"2. Respondent No.3 Education Inspector, West Zone is hereby recommended that the salary dues to be paid to the appellant be paid to the appellant directly after deducting the same from the salary grant due and payable or that may become due and payable in future to the Management from 30.1.1999 till this date."

By a further order passed by the learned Presiding Officer of the School Tribunal on 3rd May 2007, aforesaid clause 2 has been modified and the words "salary grant" have been replaced

by "non salary grant". Shri Kothari for the first and second respondents has stated that the said Respondents desire to challenge the said order dated 3rd May 2007. However, in this contempt Petition I am not concerned with the said aspect.

2. The order of the School Tribunal as it stands today, means that as and when non salary grant is due and payable to the management and as and when the same is released, while releasing the non salary grant, the amount due and payable to the Petitioner on account of salary will have to be deducted from the non salary grant and the said amount will have to be paid directly to the Petitioner.

3. Initially, an Affidavit was filed on 3rd February 2007 by Shri Ravindra Ramkrishna Bhise, Education Inspector, Brihanmumbai (West Zone), Jogeshwari (E) Mumbai in which an assurance was given which reads thus :

"10. I state that the non-salary grant which is due and payable to the management has not been paid for the years 2002-2003, 2003-2004, 2004-2005, 2005-2006. I state that the non salary grant for the year 2002-2003 is likely to be provided to the management in at the most about 2 months. I state that I am ready and willing to pay the same directly to the Petitioner as and when it would be made available for disbursing to the school. I state that I am

willing to comply the order passed by the learned Presiding Officer, School Tribunal, Mumbai dated 30-10-2004 by paying backwages to the Petitioner from the non-salary grant due and payable to the management as early as possible."

4. When this Petition came up before this Court on 12th June 2007, the learned A.G.P. fairly invited my attention to the fact that non salary grant of Rs.79,313/- for the year 2002-2003 and of Rs.6,45,625/- for the year 2003-2004 has been released in favour of the management without making any deduction after the aforesaid affidavit was filed by the contemnor.

5. Today, an additional Affidavit is filed by the contemnor. He has tried to explain in the Affidavit as to why non salary grant was released by him in favour of the management without making any deduction for payment of amount to the Petitioner. It is, however, not disputed that today the first and second Respondents have handed over a cheque in the sum of Rs.7,34,938/- to the Advocate for the Petitioner towards the arrears of salary payable to the Petitioner. The said amount represents the entire non salary grant released in favour of the management for the years 2002-2003 and 2003-2004.

6. The learned Advocate for the Petitioner made a grievance

that the said amount does not represent the entire amount due and payable to the Petitioner. As stated earlier, in paragraph 10 of the earlier Affidavit of the contemnor it is stated that the non salary grant was not paid to the management for the years 2002-2003 to 2005-2006. As stated earlier, now non salary grant for the years 2002-2003 and 2003-2004 has been released. In view of the assurance recorded in paragraph 10 of the aforesaid Affidavit it is obvious that that while releasing the non salary grant for the further period, the contemnor will be bound to comply with the directions in the order dated 30th October 2004 as modified on 3rd May 2007 passed by the learned Presiding Officer of the School Tribunal. Statements made by Shri Ravindra Ramkrishna Bhise in paragraph 10 of the aforesaid Affidavit are accepted.

7. Considering the aforesaid aspects, now at this stage it is not necessary to take any further action against the contemnor under the Contempt of Courts Act,1971. However, it will have to be observed that the Education Inspector ought to have been very careful while releasing non salary grant in favour of the management.

8. Subject to what is stated above, notice issued to the contemnors is discharged. Contempt Petition is disposed of.

9. It is clarified that this order is passed without

prejudice to the right of the management to challenge the order dated 3rd May 2007 passed by the School Tribunal.

JUDGE

JUDGE